

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

JAMEL MCKELVEY,

Plaintiff,

v.

CIVIL ACTION NO. 2:23-cv-00146

CO SPENCE, et al.,

Defendants.

ORDER

Pending before the Court are Plaintiff's Motion for Summary Judgment, (ECF No. 12), and Plaintiff's Motion for Status Conference, Summary Judgment, and Cease and Desist, (ECF No. 16). By standing order filed in this case on February 22, 2023, (ECF No. 2), this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). Magistrate Judge Tinsley entered his PF&R on January 23, 2024, recommending this Court deny Plaintiff's motions without prejudice. (ECF No. 17.)

This Court is not required to review, *de novo* or under any other standard, factual or legal conclusions contained within the PF&R to which no objections were addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th

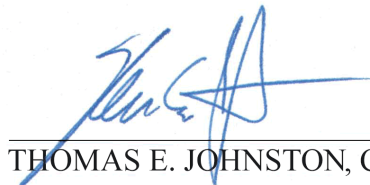
Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on February 9, 2024. To date, no objections have been filed. Accordingly, the Court **ADOPTS IN PART** the PF&R, (ECF No. 17), and **DENIES** without prejudice Plaintiff’s Motion for Summary Judgment, (ECF No. 12), and **DENIES** without prejudice Plaintiff’s Motion for Status Conference, Summary Judgment and Cease and Desist, (ECF No. 16), only to the extent it that it asks this Court to grant summary judgment.¹ The Court **REMANDS** this matter to Magistrate Judge Tinsley for further proceedings.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: February 29, 2024

A handwritten signature in blue ink, appearing to read 'Th. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON, CHIEF JUDGE

¹ As indicted in the PF&R, Plaintiff’s request for a status conference and a cease and desist should be resolved by separate order entered by the Magistrate Judge.